GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Chit Fund Act, 1982 – Appeal Petition filed by Sri Addanki Venkata Narasayya, S/o Late Dharma Raju, R/o Vijayawada against the award passed in Arbitration Claim Petition No.288/2014 dated 03.03.2017 – Orders – Issued.

REVENUE (REGN.II) DEPARTMENT

G.O.RT.No. 844 Dated: 23-08-2017.
Read the following:-

1. Appeal Petition filed by Sri Addanki Venkata Narasayya, S/o Late Dharma Raju, R/o Vijayawada dated 14.06.2017.
2. Govt. Memo No.651652/Regn.II/A1/2017, dated 21.07.2017.
3. Govt. Letter No.651652/Regn.II/A1/2017, dt 21.07.2017.
4. Govt. Memo No.631676/Regn.II/A1/2017, dt 26.07.2017.
5. Govt. Letter No.651652/Regn.II/A1/2017, dt 26.07.2017.

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ORDER:-

This is an Appeal Petition Under Section 70 of the Chit Fund Act, 1982 filed by Sri Addanki Venkata Narasayya, S/o Late Dharma Raju, R/o Vijayawada (here-in-after called the "Appellant") against the award passed in Arbitration Claim Petition No.288/2014 dated 03.03.2017 by the Deputy Registrar of Chits, Vijayawada.

2. Brief facts of the case are as follows:-

(i) The appellant joined in the present chit No. VTMN9/30 as a subscriber for a value of Rs.2,00,000/- payable @ Rs.5,000/- per month for a period of 40 months. He participated in the Chit Auction held on 10.05.2012 and received the prized money of Rs.1,09,400/- on 22.05.2012 after executing necessary documents along with gurantors in favour of the company for proper payment of further subscription. He had paid 28 installments in full and thereafter committed default from 10.02.2014 onwards. The Chit Fund Company has issued a demand legal notice dated 25.11.2014 to all the opponents through its Advocate. In spite of it there is no reply. Hence, the Chit Fund Company has filed the Dispute before the Deputy Registrar of Chits, Vijayawada. The Deputy Registrar of Chits, Vijayawada passed order that the Chit Fund Company is entitled to recover an amount of Rs.30,000/- jointly and severally from the opponents 1 to 5 together with interest at the rate of 12% per annum from the date of default i.e., 23.01.2014 to tlll the date of realization and also Rs.2,730/- towards cost of the dispute. The amounts paid, if any, after filing of the dispute shall be a given credit to.

(ii) Aggrieved by the above said order, the Appellant filed the present Appeal.

3. The Appeal has been examined and condoned the delay. The case was first posted for hearing on 26.07.2017 at 11.30 A.M. Since the appellant did not attend at the time specified, the case was adjourned to 21.08.2017 at 11.00 A.M.

4. On 21.08.2017, the Appellant and Counsel for the Respondents attended. Heard both the parties. The points for determination are :

a) Whether the Appellant is entitled for 50% of foregone amount of Rs.80,000/-
b) Whether the Appellant is entitled for exemption of interest and also costs that were awarded by the Lower Authority; and
c) Whether there are any grounds to interfere with the Award and Recovery Certificate passed by the Deputy Registrar of Chits, Vijayawada dated 03.03.2017 and dated 29.05.2017 respectively in Arbitration Claim Petition No.288/2014.

POINT NO. A:-

The contention of the appellant is that he never agreed to forego an amount of Rs. 80,000/-. The Foreman deducted Rs. 80,000/- without conducting the auction. As seen from the record (cash voucher) contained the signature of the Appellant, so, the Appellant herein received the prize amount by way of cheque by signing on cash voucher which discloses that the appellant admitted the foregone amount and signed on cash voucher. Hence, the contention of the Appellant is not believable that the disputant company has not conducted any auction. If really the company not conducted the auction and straight away deducted the amount, the appellant might have given complaint to the concerned Chit Registrar either before receiving the chit amount or after receiving the prize amount under Ex.A9. Foregone amount of Rs. 80,000/- is to be distributed to all the chit members in said group. So, from the above observation, it is opined that the Appellant is not entitled for any foregone amount and the contention of the Appellant is not acceptable and accordingly this point is answered against the appellant.

POINT NO. B AND C:-

After verifying the entire record, award and recovery certificate with utmost care and caution, found that in the award and recovery certificate, the date of awarding interest is not clearly mentioned i.e. whether from the date of filing of the application or from the date of default. In one place at Point No. 3 in page 6, it is mentioned that the disputant company is entitled to the claim for Rs. 30,000/- from the date of default i.e. 10-06-2014 to till the date of realization. Where as in order portion it was mentioned that the disputant company is entitled to recover Rs. 30,000/- from opponents 1 to 5 from the date of default i.e. 23-01-2014 to till the date of realization and where as in Recovery Certificate it was mentioned that the disputant is entitled to recover an amount of Rs. 30,000/- from opponents 1 to 5 from the date of Dispute i.e. from 10-12-2014 to till the date of realization. It is considered that these are clerical mistakes and such mistakes can be rectified at any stage. This appellate authority has such power to rectify the same and pass appropriate orders.

As seen from the Dispute application, it is mentioned that the dispute application is filed before the Deputy registrar of Chits Vijayawada on 10-12-2014. The award was passed on 03-03-2017. The Disputant mentioned in the dispute application that the 1st opponent committed default from 10-02-2014 onwards. It is the contention of the party that the lower authority has taken all most all 820 days to adjudicate the matter. As seen from the record docket it is very clear that the appellant filed counters 3 to 4 times and the company filed its objections on each counter and it is pertinent to

mention here that to decide the matter in proper way, there is every chance of delay. The parties of the proceedings have no right to claim exemption of interest in such delay of proceedings. With regard to the costs are concerned, the disputant filed costs memo contending that they incurred costs to the dispute for an amount of Rs. 2,730/- which includes fee for claim and other expenses. Award was passed by the Deputy Registrar of chits with costs of Rs. 2,730/-. With regard to these expenses are concerned the disputant company paid fee on total claim amount of Rs. 66,000/-. But this award was passed only for Rs. 30,000/. Considering the contentions of the appellant and matter is pending for adjudication for a long period, the Appellate Authority feels that the appellant is entitled for the exemption of interest and for costs awarded by the Deputy Registrar of Chits, Vijayawada.

5. Government have examined the case with reference to the material available on record and have perused the Appeal Petition and heard both the parties and in exercise of powers conferred under section 70 of the Chit Fund Act, 1982, hereby order that the Respondent is entitled to recover an amount of Rs. 30,000/- (Rupees thirty thousand only) jointly and severally from opponents 1 to 5. The opponents 1 to 5 are directed to pay the awarded amount within 30 days from the date of this order to the disputant. If the opponents failed to pay the awarded amount within the stipulated period of 30 days, the Disputant is at liberty to recover the awarded amount of Rs. 30,000/- from the opponents 1 to 5 with interest at the rate of 12% per annum after the expiry of 30 days from the date of this order by filing execution petitions before the competent court of law. The appellant and respondent do bear their own costs.

(BY ORDER AND IN THE NAME OF THE OF GOVERNOR OF ANDHRA PRADESH)

Dr.D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
Sri Addanki Venkata Narasaiah, Resident of HIG 287, HB Colony, Bhavanipuram, Vijayawada through the Dy. Registrar of Chits, Vijayawada.
M/s. Shiram Chits Pvt. Ltd., Ibrahimpatnam Branch, Vijayawada through the Dy. Registrar of Chits, Vijayawada.
Sri N.Bhujanga Rao, S/o Radha Krishnaa Murthy, R/o Flat No.402, Approrva Residency, Patamata, Vijayawada, Krishna District through the Dy. Registrar of Chits, Vijayawada.
Smt. A.Lakshmi Rupa, W/o V.Rajendra Prasad, R/o D.No:H.I.G.235, H.B.Colony, Vijayawada, Krishna District through the Dy. Registrar of Chits, Vijayawada.
Sri Ch.L.Narasimha Rao, S/o Venkata Narayana, R/o D.No:70-3-3/2 A.N.S.M.School Road, Vijayawada, Krishna District through the Dy. Registrar of Chits, Vijayawada.
The Deputy Registrar of Chits, Vijayawada.
Copy to
The Director and Inspector General of Registration and Stamps, Andhra Pradesh, Vijayawada.
The P.S. to Special Chief Secretary to Govt., Revenue (Regn.II) Department.
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.